THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.23654 of 2006

Dated: 15th November, 2006

Between:

M.L. Narasimha Rao. **…..PETITIONER**

AND

A.P. State Road Transport Corporation,
Musheerabad, Hyderabad rep by its
Managing Director and another. **….RESPONDENTS**

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.23654 of 2006

ORDER:

This writ petition is filed questioning the Notice No.P2/Claim (2511) E392771/99/SRBS, dated 20-10-2006 ordering recovery of an amount of Rs. 68,080/-.

Though the impugned order is termed as notice, the 2nd respondent in fact by the said impugned order sought to recover an amount of Rs.68,080/- from the petitioner on the ground that the petitioner was on the rolls of both A.P.S.R.T.C as well as Prohibition & Excise Department, which is not permitted as per the APSRTC Employees (Service) Regulations read with Conduct Regulations.

Learned counsel for the petitioner mainly contended that though the impugned proceedings are described as "notice", virtually, they are final orders for recovery of amount and no opportunity was given to the petitioner before passing such orders.

Heard the learned counsel for the petitioner as also the learned counsel for the respondents and perused the impugned notice.

The relevant portion of the impugned notice reads as under.

> " You have applied leave for 3 days from 30-8-1998 to 01-09-1998. From 02-09-1998 to 21-02-1999 you have reported sick. You have reported for duty on 22-02-1999 and have submitted representation on 24-02-1999 requesting to direct you for medical examination. You were retired from service on medical grounds with effect from 1-3-1999.

> While you were on sick you have joined in Probation & Excise Department, Government of Andhra Pradesh, Guntur as Typist on 01-11-1998 as per the letter cited at (4). This shows that you are on rolls both in APSRTC and also in Prohibition & Excise Department from
> 01-11-1998 till you retired from service from APSRTC on medical grounds on 01-03-1999.
>
> .....
>
> In view of the above, the notice is hereby served on you to refund an amount of Rs.68,080 to SRBS by way of Demand Draft drawn in favour of Secretary, APSRTC SRBS, Hyderabad before 31.10.2006. Further you are not eligible for monthly cash benefit from APSRTC SRBS from September, 2006 onwards. If this amount of Rs.68,080/- is not received from you before 31.10.2006, action will be taken to recover the amount through Excise Department."

At the time of hearing, the learned counsel for respondent fairly admitted that the impugned order is a recovery order and the same was issued without issuing a show-cause notice.

Though the impugned order is termed as "notice", admittedly, it is a final order directing the petitioner to refund the amount. The said order was passed without affording any opportunity to the petitioner to submit his case. Hence, the impugned order which is styled as notice, is hereby set aside. However, the respondents are at liberty to take appropriate action in the matter after issuing a show cause notice calling for explanation of the petitioner, and pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

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(N.V. RAMANA, J.)

Date: 15.11. 2006.

GRK